

S/N 10/022,609

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

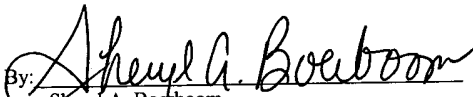
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|-------------------|---|-----------------|---------------|
| Applicant:        | VANDLEN ET AL.  | Examiner:       | R. HAYES      |
| Serial No.:       | 10/022,609  | Group Art Unit: | 1647          |
| Filed:            | DECEMBER 17, 2001                                       | Docket No.:     | 11669.171USC5 |
| Confirmation No.: | 5365  | Customer No.:   | 23552         |
| Title:            | STRUCTURE, PRODUCTION AND USE OF HEREGULIN 2<br>LIGANDS |                 |               |

CERTIFICATE UNDER 37 CFR 1.10

'Express Mail' mailing label number: EV 408488262 US

Date of Deposit: July 28, 2004

I hereby certify that this paper or fee is being deposited with the United States Postal Service 'Express Mail Post Office To Addressee' service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450

By:   
Cheryl A. Boerboom

TERMINAL DISCLAIMER TO OBVIATE  
A DOUBLE PATENTING REJECTION

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Petitioner, Genentech, Inc., a corporation organized and existing under the laws of the State of California and having its primary place of business at 1 DNA Way, South San Francisco, in the county of Delaware, and the state of California represents that it is the owner of the entire right, title and interest in U.S. Patent Application Serial No. 10/022,609, filed on December 17, 2001 and entitled STRUCTURE, PRODUCTION AND USE OF HEREGULIN 2 LIGANDS, by virtue of our assignment recorded at Reel 5769, Frame 0756.

Petitioner, Genentech, Inc., hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the above-identified application, which would extend beyond the expiration date of the full statutory term of U.S. Patent No. 5,859,206 and hereby agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal

title to U.S. Patent No. 5,859,206, this agreement to run with any patent granted on the above-identified application and to be binding upon the grantee, its successors, or assigns.

In making the above disclaimer, Petitioner does not disclaim the terminal part of any patent granted on the above-identified application that would extend to the full statutory term as presently shortened by any terminal disclaimer of United States Patent No. 5,859,206, in the event that United States Patent No. 5,859,206 expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321(a), has all claims cancelled by a reexamination certification, or is otherwise terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

For submissions on behalf of an organization (e.g. corporation, partnership, university, government agency, etc.), the undersigned (whose title is supplied below) is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

MERCHANT & GOULD P.C.  
P.O. Box 2903  
Minneapolis, Minnesota 55402-0903  
(612) 332-5300

Date:

July 28, 2004

Katherine M. Kowalchuk  
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Reg. No. 36,848  
KMK:sab



**THE STATEMENT BELOW IS FOR OFFICE USE ONLY**

In accordance with the decision granting the petition filed on \_\_\_\_\_, \_\_\_\_\_, this terminal disclaimer is accepted. The period of patent lapse specified above has been accepted as equivalent to \_\_\_\_\_ months.

\_\_\_\_\_  
Petitions Examiner